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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,412	06/27/2001	Werner Hofmann	A34357 071308.0167	2801
7590		01/20/2004		
BAKER BOTTS LLP			EXAMINER	
44TH FLOOR			HEITBRINK, JILL LYNNE	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112-4498			PAPER NUMBER	
			1732	

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/892,412	HOFMANN, WERNER
	Examiner	Art Unit
-- <i>The MAILING DATE of this communication appears on the top center of the first page of this communication.</i>	Jill L. Heitbrink	1732

-- THE MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Office Action Summary

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION

- Time for Reply** (37 CFR 1.136(a))
- Time for reply may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 06 November 2003.
2a) This action is **FINAL**. 2b) This action is non-final.
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.
4a) Of the above claim(s) 4,5,9,12,13 and 18 is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-3,6-8,10,11 and 14-17 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Forms (PTO-1449) Paper No(s) _____

4) Interview Summary (PTO-413) Paper No(s) _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

1. Applicant's election with traverse of Species A in Paper filed Nov. 6, 2003 is acknowledged. The traversal is on the ground(s) that the species B and C (claims 4 and 5) are dependent from species A (claim 3). This is not found persuasive because the species B and C disclosed in the specification in paragraphs [0007] and [0008] do not interact with the screw movement. The measured values and profiles are shown to connect with the control system ST. However, the values do not interact.
2. Additionally, a restriction based on the subcombinations usable together in a single combination was made in the restriction mailed Sept. 16, 2003 showing the separate utility of the species or inventions A, B, and C.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 4, 5, 9, 12, 13 and 18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 6, 7, 10, 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 6 is unclear as to the nexus between the profiles in claim 6 with the profiles in claim 3 or how the profiles of claim 6 are provided in the apparatus of claim 3. Claim

6 is being examined based on the at least one speed/displacement profile variable of claim 3, line 5 and 6 being the speed/time profile of claim 6. And, Claim 6 is being examined based on the pressure measured of claim 3, line 4 being the measured variable/time profile of claim 6. However, claim 6 is unclear as to whether it uses the pressure/position profile since the position of the screw is measured in claim 3.

7. Claim 7 recites the limitation "measured-variable/displacement profile" in line 2.

There is insufficient antecedent basis for this limitation in the claim.

8. Claim 10, line 5 the eighth word is unclear and is being examined as "variable".

9. Claim 10, line 6 is unclear as "said setpoint" has been defined in both line 3 and line 5.

10. Claim 14 is unclear as to what is being claimed since it is dependent from claims 3 (claim 11 is dependent from claim 3) and 6.

11. Claim 15 is unclear as to what is being claimed since it is dependent from claims 3 (claim 11 is dependent from claim 3) and 7.

Claim Objections

12. Claims 7 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 7 requires structure of claim 3 to be removed and "replaced". These are alternative embodiments and should be independently claimed.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1-3, 6-8, 10, 11 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayasi et al. Pat. No. 5,733,486.

15. Hayasi et al. discloses an injection molding machine including a screw drive (hydraulic moving unit 32), at least one parallel open loop or closed loop control branch (col. 5, lines 10-18 and col. 6, lines 30-33), and a detector for measuring and registering at least one positional determination (changing time or distance, col. 3, lines 4-6) and at least two variable (speed and pressure, col. 3, lines 7-12) generated during the operation of the injection molding machine. When at least one positionally dependent measured variable is exceeded (pressure exceeded, col. 3, lines 16-18), a first positional set point determination is provided which can be counteracted in the control branch by a set point correction derived from a positionally dependent setpoint profile (speed counteracted, col. 3, lines 18-28). The setpoint is counteracted if the profile is exceeded, see col. 6, lines 59-col. 7, line 25.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill L. Heitbrink whose telephone number is 571-272-1199. The examiner can normally be reached on Monday - Friday 9:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni can be reached on 571-272-1196. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 713-308-0661.


Jill L. Heitbrink
Primary Examiner
Art Unit 1732

jlh